

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:

Opinion requested by )  
John C. Morrissey )  
Pacific Gas and Electric Company )

---

No. 75-065-C  
August 7, 1975

BY THE COMMISSION: We have been asked the following questions by John C. Morrissey, Pacific Gas and Electric Company:

Most PG&E employees who are registered as "lobbyists" under the Act also perform other duties and therefore allocate only a portion of their time to activities reportable to "lobbying."

(1) If such a lobbyist who has other non-lobbying duties has a meal with another company employee who is also a registered lobbyist, is the time spent in the restaurant and is the cost of the meal (as reimbursed to the lobbyist by the company) reportable as an expense made in connection with the lobbyist's activities "influencing legislative or administrative action" under Section 86106(a) in any of the following cases: .

- a. If the purpose of the meal is to discuss in general various means by which legislative or administrative action can be influenced;
- b. If the purpose of the meal is to discuss a specific issue upon which the lobbyist is preparing research for eventual use in connection with influencing a specific legislative or administrative action;
- c. If the purpose of the meal is to discuss general political or governmental matters, without any discussion of any specific legislative or administrative action;
- d. If the purpose of the meal is to discuss general industry or company problems, which might or might not be or become the subject of legislative or administrative actions;

- e. If the purpose of the meal is to discuss company business which has no relation to lobbying (including administrative and personnel matters).

### CONCLUSION

A lobbyist is required to report the expense of a meal for the benefit of another lobbyist if the expense is incurred in connection with his activities as a lobbyist.

### ANALYSIS

A lobbyist who incurs expenses in connection with his activities as a lobbyist is required to establish an "account," Government Code Section 86105, <sup>1/</sup> which under the regulations of the Commission may consist of a bank account or a ledger account. 2 Cal. Adm. Code Section 18615(a)(1). The lobbyist is required to report each disbursement from the account, providing the date, the amount, the full name and address of the payee, a full description of the consideration received, and of the beneficiary of the disbursement. Where as here, the disbursement is for a gift of food and beverages, the lobbyist must identify each person who received the food and beverage and report the amount spent for each person. Section 86107(b)(4).

The foregoing sections require that the PG&E lobbyists' expenses which are in question be reported if they are disbursed from the lobbyists' accounts. Such expenditures of a lobbyist must be paid directly from the lobbyist's account if they are incurred "in connection with his activities as a lobbyist." Section 86106(a). Accordingly, if the expenses in question are incurred in connection with lobbying activities they must be reported. If they are not so incurred they are reportable only if they have been paid voluntarily from the lobbyist's account.<sup>2/</sup>

---

<sup>1/</sup> All statutory references are to the Government Code unless otherwise noted.

<sup>2/</sup> We do not here consider to what extent such expenditures or reimbursements for such expenditures may be reportable by the lobbyist's employers. Proposed regulations regarding reporting by lobbyists' employers have been noticed for hearing at the September 20-21, 1975, meeting of the Commission. In addition, the reportability by the employer of lobbyist expenses similar to those in question here will be considered in the opinion by John W. Witt, Request No. 75-57.

Whether or not an expense is incurred "in connection" with lobbying activities is a question of fact related to the purpose for which and the circumstance in which the expense is incurred. In situations where the lobbyist is retained by his employer only for lobbying and the employer pays for or reimburses the lobbyist for the cost of the meal, then the activity may safely be assumed to be incurred in connection with a lobbying activity. There would be no other reason for the employer to pay for the food and beverages. In the case of a full-time lobbyist, therefore, one can reasonably infer that any expenses incurred for which he is reimbursed are lobbying expenses. In the case of a lobbyist retained to provide both lobbying and non-lobbying services to his employer, however, the factual determination is more difficult. Reimbursement does not automatically create an inference of lobbying activity, because the meal could be a reimbursable business expense based on the lobbyist's non-lobbying responsibilities.

Although each case must be judged on its own facts, we believe the phrase "in connection with" lobbying activities is a broad one, and that the meal should be reported if it in any respect is intended to further the lobbyist's activities. It need not be reported only if it is completely unrelated to lobbying activities.

Applying this standard to the situations described by Mr. Morrissey we conclude that the meals would be reportable, except the meals described in items (d) and (e). Item (a) is clearly and directly related to lobbying. Item (b) involves discussion of a specific issue upon which the lobbyist is preparing research for eventual use in connection with influencing a specific legislation or administrative action. By its terms, this is connected with lobbying activities. Item (c) involves discussion of general political or governmental matters. Item (c) is not connected to lobbying activities as the discussion concerns general matters. If political action was imminent regarding such matters, the relationship to lobbying activities would require reporting, but so long as only general matters are involved, no reporting is required. Item (e) has no connection with lobbying activities and is not reportable.

Approved by the Commission on August 7, 1975. Concurring: Brosnahan, Carpenter, Lowenstein, Miller and Waters.



Daniel H. Lowenstein  
Chairman